

June 5, 2009

NOTICE REQUIRING STATEMENT FROM SHUTTLE EXPRESS
(Response due by Monday, June 8, 2009, at 5:00 p.m.)

RE: *In re Application of SeaTac Shuttle, LLC, d/b/a Whidbey-SeaTac Shuttle, for extension of authority under Certificate No. C-1077, for a Certificate of Public Convenience and Necessity to operate motor vehicles in furnishing passenger and express service as an auto transportation company, Docket TC-090118*

TO: SHUTTLE EXPRESS, INC., d/b/a SHUTTLE EXPRESS:

On January 16, 2009, SeaTac Shuttle, LLC, d/b/a Whidbey-SeaTac Shuttle (SeaTac Shuttle) filed an application (Application) with the Washington Utilities and Transportation Commission (Commission) requesting an extension of authority under its current Certificate No. C-1077 authorizing it to operate motor vehicles in furnishing passenger and express service as an auto transportation company.

On February 17, 2009, Shuttle Express, Inc., d/b/a Shuttle Express (Shuttle Express) filed a protest to the Application. On February 23, 2009, Evergreen Trails, Inc., d/b/a Gray Line of Seattle (Evergreen Trails), filed a protest to the Application.

On May 14, 2009, SeaTac Shuttle and Evergreen Trails filed a settlement agreement with the Commission. Within the settlement agreement, Evergreen Trails agreed to support SeaTac Shuttle's application in exchange for a restrictive amendment to SeaTac Shuttle's application preventing SeaTac Shuttle from transporting passengers from points in Seattle to the Seattle Tacoma International Airport. Shuttle Express, a protestant in the docket, is not a party to the settlement agreement.

In a notice issued by the Commission on May 22, 2009, the Commission informed the parties that the June 10, 2009, evidentiary hearing would be expanded to encompass the settlement agreement and directed Shuttle Express to file with the Commission

any exhibits it planned to offer in opposition to the settlement agreement by June 3, 2009. Pursuant to WAC 480-07-740(2)(a) and (b), the notice also directed SeaTac Shuttle and Evergreen Trails to file documents supporting the settlement agreement they entered into by June 3, 2009.

On June 3, 2009, SeaTac Shuttle and Evergreen Trails filed a Statement in Support (Statement) of their settlement agreement. The Statement asserted, in part, that “Shuttle Express informed [Evergreen Trails’] counsel that it has no objection to [the] restrictive amendment.” Statement, ¶ 2. In effect, the restrictive amendment comprises the entire settlement agreement, and if Shuttle Express has no objection to the restrictive amendment, as Evergreen Trails and SeaTac Shuttle claim, then Shuttle Express does not object to the application as modified by the settlement agreement or to the settlement agreement itself.

Shuttle Express’ reversal of position would signify that the Application as modified by settlement is unopposed and would negate the need for the evidentiary and settlement hearings scheduled for June 10, 2009, such that a decision on the Application as modified by the settlement agreement could be based on a paper-record only. On the other hand, Shuttle Express did not indicate that it does not oppose the settlement agreement when it filed six exhibits with the Commission on June 3, 2009, in support of its protest.

While the Commission appreciates being informed that Shuttle Express has revised its position and now supports SeaTac Shuttle’s application as modified by the settlement agreement, the information should have been brought to the Commission’s attention directly by Shuttle Express. Further, Shuttle Express should be required to clarify its position: The company appears to have informed the settling parties of its change in position and then filed documents with the Commission to be used as exhibits in the evidentiary portion of the June 10, 2009, hearing.

The Commission seeks to avoid the unnecessary use of resources by the parties and the Commission in holding a hearing that may be avoidable for all parties. The Commission cannot determine the need for a hearing in this matter unless Shuttle Express itself clearly states its position in this matter.

NOTICE IS GIVEN That Shuttle Express, Inc., d/b/a Shuttle Express shall submit a short signed declaration stating whether or not it has reversed its original position and now favors or does not oppose the proposed settlement agreement. Shuttle Express must file an original and four (4) paper copies of their waiver with the Commission by Monday, June 8, 2009, at 5:00 p.m.

Sincerely,

MARGUERITE E. FRIEDLANDER
Administrative Law Judge